

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

----- X  
BENJAMIN M. LAWSKY, Superintendent of Financial  
Services of the State of New York,

Plaintiff,

v.

CONDOR CAPITAL CORPORATION and STEPHEN  
BARON,Defendants.  
----- X

Case No.: 14-CV-2863 (CM)

Denied. I do not  
permit surreplies. You  
can make these  
arguments at the  
hearing on Monday.

Peter M. Mc

5/8/14

---

**MOTION FOR LEAVE TO FILE SURREPLY TO DEFENDANTS REPLY  
MEMORANDUM**

---

Defendants Condor Capital Corporation ("Condor") and Stephen Baron (together with Condor, "Defendants"), by and through their undersigned counsel, respectfully submit this Motion for leave to file a Surreply in response to Plaintiff's reply Memorandum of Law. The filing of a Surreply is within a Court's discretion if necessary to "permit comprehensive adjudication of the issues raised." *See Correspondent Servs. Corp. v. JYW Inv., Ltd.*, No. 99 Civ. 8934, 2004 WL 2181087 (S.D.N.Y. 2004). The filing of a Surreply is most appropriate when there is a new issue raised in movant's reply papers. *See, e.g., Lee v. Coughlin*, 26 F. Supp. 2d 615 (S.D.N.Y. 1988) (granting plaintiff the right to a Surreply because of a new issue); *Pony Pal LLC v. Claire's Boutique, Inc.*, 05 Civ. 2355, 2006 WL 2827642 (Oct. 2, 2006) (granting filing of Surreply); *ResQNET.Com, Inc. v. Lansa, Inc.*, 382 F. Supp. 2d 424 (S.D.N.Y. 2005) (same).

Here, Plaintiffs have set forth new facts in two declarations submitted with their reply memorandum, both of which Defendants dispute: first, that the overpayments due customers

5/8/14

from Condor is almost \$11 million; and second that Condor has not attempted to comply with the TRO. Both of these statements are not true and thus Plaintiff's respectfully request leave to file a very short Surreply to these specific, new allegations. The Surreply includes a short memorandum from counsel and a second declaration of Todd Baron only addressing these specific contentions. Defendants have attached the proposed filing as Appendix A if the Court would allow the Surreply to be filed.

Dated: May 7, 2014  
New York, New York

By: /s/ Michael M. Rosensaft

Michael M. Rosensaft  
Leah Mary Campbell

KATTEN MUCHIN ROSENMAN LLP  
575 Madison Avenue  
New York, New York 10022-2585  
(212) 940-8800

*Attorneys for Defendants*